

But where there was no impediment to the marriage at the time of the conception of the child, an intervening marriage of one of the parties between the birth of the child and their subsequent marriage and acknowledgment of it does not under the Scotch law prevent legitimation, *Kerr v. Martin*, 2 Dunl. Bell & Murray, N. S. 752; 4 Wils. & Shaw, App. 71; *Spedden v. Patrick supra*; and so doubtless it would be held here.

Under the French law, which requires the acknowledgement of both parties in addition to the marriage to complete the legitimation of the children, it has been laid down that though the father acknowledged the child to be his, yet if it be shewn that the child was not his offspring, or it be a matter of great doubt, and it is not proved that the child is his offspring, the legitimation does not take place, *Salnove's case*, cited in *Wright's Trusts*, 25 L. J. Chan. 621; 2 K. & J. 595.

Effect of marriage and acknowledgment.—The effect of the subsequent marriage and acknowledgment is to make the bastard legitimate for all purposes, *Stewart v. Miller*, 8 Gill, 128. Accordingly, it was held in *Bevans v. Taylor*, 7 H. & J. 1, that such a bastard might make himself heir to his great-grandfather, and recover in ejectment his undivided share in land devised by the latter for life, which life estate was outstanding during the lives of his intermediate ancestors, and see *Craufurd v. Blackburn*, 3 Wallace, S. C. 175.

By the civil law if such illegitimate children die before the marriage of their parents, they are still considered as legitimate and transmit their legitimacy to their issue. But by that law the legitimation of bastards by the subsequent marriage of their parents is considered a consequence inseparably annexed to the marriage, and so, though parents or children should waive or refuse it, the latter would nevertheless be legitimate, whereas under our law an acknowledgment by the father is required in addition. There seems, however, no reason why a father should not acknowledge a deceased illegitimate to have been his child, and thus transmit his rights to his issue. The better opinion, too, under the civil law was, that though such legitimated children were to be considered legitimate from the time of their birth, yet they were not to be so treated if it would operate to the detriment of a third person. Thus if there be a natural born child, and the father afterwards marries and has sons, his wife

evidence of illegitimacy but that the fact of illegitimacy should *first* be established and then the marriage and acknowledgment offered to prove paternity.

The subsequent marriage may even be proved by general reputation; for although, where the connection between the parties was illicit in its commencement, it will be presumed to continue to be of the same character, yet this presumption may be rebutted. So if after the birth of a bastard there was cohabitation between his father and mother, the latter assuming the name of the former and the parties treating each other as man and wife and treating the bastard as their child, and if the parents were treated as man and wife by their friends and acquaintances, these are facts from which the jury may infer a lawful marriage, notwithstanding the original illicit connection between the parties. *Jones v. Jones*, 45 Md. 144; *Jones v. Jones*, 48 Md. 391. Cf. *Richardson v. Smith*, 80 Md. 94; *Jackson v. Jackson* 82 Md. 17; *Jackson v. Jackson*, 80 Md. 176.